

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

**DANNY D. JOHNSON, PATRICIA  
LYNN JOHNSON, and REALHUNTS,  
INC.,**

**Defendants.**

**CASE NO. 8:08CR53**

# MEMORANDUM AND ORDER

This matter is before the Court on the Report and Recommendation (Filing No. 57) issued by Magistrate Judge F.A. Gossett recommending denial of the motions to suppress filed by the Defendant, Danny D. Johnson (Filing Nos. 31, 32)<sup>1</sup> and Patricia Lynn Johnson (Filing No. 31). No objections have been filed to the Report and Recommendation as allowed by 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3(a).

The Defendants seek an order suppressing oral and written statements made to law enforcement on May 16 and July 11, 2007, in conjunction with the search of their residence. The Defendants do not ask for the suppression of physical evidence. The Defendants argue that the statements were made without *Miranda* warnings and were not knowingly or voluntarily made. Judge Gossett determined that the statements were noncustodial and recommended that the motions to suppress be denied. Judge Gossett credited Agent Damico's testimony and supported his decision with specific references to the evidence. (Filing No. 57, at 11-12.)

<sup>1</sup>Danny D. Johnson (“Mr. Johnson”) was granted permission to join in the motion (Filing No. 31) filed by Patricia Lynn Johnson (Ms. Johnson”). (Filing No. 54, at 4.)

Notwithstanding the absence of objections, pursuant to 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3, the Court has conducted a de novo review of the record. The Court has read the parties' briefs (Filing Nos. 34, 38) and the transcript (Filing Nos. 54, 55, 56). The Court has also viewed the evidence. (Filing No. 40) Because Judge Gossett fully, carefully, and correctly applied the law to the facts, the Court adopts the Report and Recommendation in its entirety. The Court agrees that the Defendants were not in custody on either date in question, and therefore *Miranda* warnings were not required.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation (Filing No. 57) is adopted in its entirety;
2. The motion to suppress filed by the Defendant, Patricia Lynn Johnson, and joined in by the Defendant, Danny D. Johnson, (Filing No. 31) is denied; and
3. The motion to suppress filed by the Defendant, Danny D. Johnson, (Filing No. 32) is denied.

DATED this 19<sup>th</sup> day of September, 2008.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge